

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF ERLANGER IN KENTON COUNTY KENTUCKY AMENDING ORDINANCE NO. \_\_\_\_\_ FURTHER CLARIFYING THE \$5,000,000 TRANSFERRED IN 2022 FROM UNRESERVED FUNDS TO THE CAPITAL FUND**

Underlined sections are being added and strikethrough sections are being deleted.

**WHEREAS** the City of Erlanger desires to further clarify the \$5,000,000 placed in the Capital Fund in 2022; and

**WHEREAS** then-Councilman Gary Meyer desired to allocate money in the City's reserves to be specifically spent on capital; and

**WHEREAS** Gary Meyer has made the mention publicly (2022) that the Unreserved Unrestricted line item is being depleted and the city will be bankrupt in 3 years. Gary Meyers is not a certified public accountant. This is his opinion without any professional analysis. The actual numbers and data show otherwise. The Unrestricted Unreserved line item continues to grow. In FY 2018-19 the Unrestricted Unreserved line item was \$8,570,798. In FY 2021-22, prior to this ordinance transfer, the Unrestricted Unreserved line item was \$12,446,326 (almost 32% higher than just 3 years prior).

**WHEREAS** at the September 6, 2022 meeting there were discussions of interest rates, inflation, "Toyota-type" downturns, recessions, rising fuel prices, grocery prices, stock values, uncertain economic futures, and Erlanger's financial turmoil of previous administrations. There was discussion of cities in Eastern KY hit by floods, and Western KY cities hit by tornados – this all being done to sway some council members into believing that this transaction would prevent these issues from ever happening in Erlanger. Meanwhile, Mayor Fette, Councilman Doan, Councilwoman Elmore, and Councilman Hermes viewed this as fear-mongering; and

**WHEREAS** Mayor Fette, Councilman Hermes, Councilwoman Elmore, and Councilman Doan did not see the reason for this accounting transaction disguised as a budget amendment and these council members voted "no" on September 6, 2022. However, a majority of council voted in favor of Councilman Meyer's idea; and

**WHEREAS** Mayor Fette vetoed the ordinance. Within the General Fund there already exists a restricted reserve line item that is made up of 30% of our appropriations each year, per the recommendation of Kentucky League of Cities. There is another Non-Spendable Reserve that is made up of the previous fiscal year's budget surpluses, and there is a third account, the Unreserved Undesignated Reserve which has served as the city's savings for decades, and has continued to accumulate more money over time. Mayor Fette articulated the use of funds from this Capital Transfer (if not already budgeted) would go through the exact same process as using any unbudgeted amount of these reserves. Council would need to amend the budget and go through 2 readings

– unless in the event of an emergency. Either way, it wouldn't necessarily matter where the money was being pulled from; and

**WHEREAS** on September 20, 2022 the matter was brought back in front of council to override the mayor's veto. At this time it no longer became a matter of sense, logic, and fiscal responsibility, and more so became an opportunity for council to "flex their political muscle" to override the veto; and

**WHEREAS** neither Gary Meyer, or any one of the council members who voted in favor of the transfer ever spoke to Kara Kramer, the Director of Finance of the City of Erlanger, or asked her impression or opinion of such an unprecedented transaction. The city pays Mrs. Kramer for her expertise and acumen. And if they would have spoken to her, they may have realized that this transaction changes the structure of how the Capital Fund is used. If they had spoken to her, they may have learned that our auditors recommend AGAINST having a large pool of money in the Capital Fund; and

**WHEREAS** during the entirety of its life, the Capital Fund has only been funded with dollars necessary to accomplish the very intentional capital asset purchases, road improvements, and any other purchase in accordance with the ordinance that created the capital fund. The capital fund is fueled by one-third of the city's payroll taxes. And the city typically transfers from the General Fund the amount necessary to complete all of the projects for a given fiscal year; and

**WHEREAS** at the September 20, 2022 meeting (approximately 44:00 minute mark) Gary Meyer said this transaction wasn't just for emergencies, and that it would serve as a reserve like what Dave Ramsey refers to as a "sinking fund". He continued, it would serve as a savings for emergencies that may crop up, so the city could pay cash for those things. However, according to Dave Ramsey's website, a "sinking fund" is very different than a savings account or an emergency fund. A sinking fund is for a known expense amount and a set/ known time in which the expense is incurred. For instance, a household sinking fund could be used for next year's vacation, an anniversary gift, or kid's Summer camp. The owner of the account would put an equal portion of the expense away over the set timeline to build up to the savings required. Unfortunately this \$5,000,000 sitting idly in the Capital Fund is not deliberate at all. The someday Capital expenses they may be intended for are uncertain until they are bid, and this transferred money is ambiguous on how, or when the funds will be used (unlike the rest of the Fund). Perhaps it was a poor choice of words by Councilman Meyer, but this Capital transfer is NOTHING like a "sinking fund"; and

**WHEREAS** Council voted in favor of overturning the Mayor's veto of this financial transaction disguised as a budget amendment ordinance on September 20, 2022. Those in favor were Tom Cahill, Don Skidmore, Rebecca Reckers, Diana Niceley, Jennifer Jasper Lucas, Vicki Kyle, and Renee Skidmore. Again, none of those council members spoke with the Finance Director about this transaction prior to making this vote. Opposed were Tyson Hermes, Steve Doan, and Ryan Elmore; and

**WHEREAS** Councilman Tyson Hermes articulated that it was not his desire that council chose to make this transaction and overturn the veto, however he respected the decision of a majority of his peers. Starting in December 2022, Councilman Hermes began to try to set some parameters for the use of this money. Since it was all lumped into the Capital Fund account he knew the funds would vaporize if left unmonitored; and

**WHEREAS** at the January 17, 2023 caucus meeting, Councilman Hermes asked that the \$5,000,000 be tracked in a separate line item on the budget, so it will be apparent when the line item is being used, and how much is left. Hermes also asked that there be some written parameters that trigger the use of these funds. Hermes offered that if the funds should be used in the case of an emergency, then the ordinance reflect verbiage detailing the type of emergency. Hermes recommended the parameters be 1) in the event of a natural disaster, 2) in the event of an Act of God that impacts city capital, or 3) upon the vote of a majority of council. Councilwoman Reckers and Councilwoman Jasper-Lucas mentioned and later reiterated they didn't have the appetite to restrict the use of the funds; and

**WHEREAS** since the beginning of the FY23-24 budget cycle, staff has been looking for direction on how, or when it is appropriate to use those funds; and

**WHEREAS** Councilman Hermes brought a revised ordinance to council for a first reading at the June, 2023 regular council meeting. The only changes were the funds being tracked in its own line item, and that the funds were to be used only in a case of emergency (or upon a vote of the majority of council). Councilwoman Reckers asked that we discuss this further at the June caucus meeting; and

**WHEREAS** at the June 2023 City of Erlanger caucus meeting the ordinance and transfer was brought up again. Councilman Hermes looked for additional information on the intent for the use of the funds. He asked if the intent was to replenish the funds to keep a line-item total at \$5,000,000, or to wind-down the funds and eventually deplete the funds to zero. Council seemed to agree, the intent was to eventually wind-down the funds to zero. In a phone conversation between Gary Meyer and Councilman Tyson Hermes, Gary Meyer agreed. His intention was to deplete the line item to zero eventually some day in the distant future; and

**WHEREAS** Councilman Hermes realizes, under the current ordinance, these funds can be used for the capital expenses in the next budget cycle, since there is nothing restricting the use of these funds, other than that they are used for capital expenses. However, Councilwoman Reckers, Councilman Skidmore, and Councilman Cahill have alluded that these funds shouldn't be touched – and rather, should only be used when necessary. Councilman Hermes has begged that council articulate when it is appropriate to use these funds. Council has voiced they neither want to restrict the funds, nor say when the city should use the funds. They have said the funds are not for emergencies, and shouldn't be used (however, the ordinance does not restrict the funds from being used); and

**WHEREAS** Councilman Hermes knows he is only one vote of nine, and this Sisyphean effort to improve something that currently doesn't make sense will not happen with the current make-up of Erlanger's City Council. Councilman Hermes would simply like to track the money on a line-item in the budget, otherwise he believes it will disappear without fulfilling its unclear intended purpose by some administration and elected officials in the distant future.

**NOW, THEREFORE**, be it ordained by the City of Erlanger, in Kenton County, Kentucky as follows:

**Section 1.0 Creation of Separate Line Item for the 2022 \$5,000,000.00 Transfer from Capital Fund to the Gary Meyer Capital Line Item**

The Finance Clerk shall transfer \$5,000,000.00 from the City of Erlanger's General Unreserved Fund to a separate Line Item within the Capital Fund titled the Gary Meyer Capital Line Item.

**Section 2.0 Capital Fund- Defined**

The Capital Fund as described in Section 110.04 of the Erlanger Code of Ordinances, and this Ordinance, unless required for future City budgets and the ratification by City Counsel, shall only be used for the following expenditures:

1. Vehicles
2. Public Works Equipment
3. Public Facilities
4. Land Acquisition
5. Police department capitalizable equipment including but not limited to radios, radar units and firearms
6. Fire/EMS department capitalizable equipment
7. Grant Projects
8. Municipal Aid Road Fund (MARF) Projects
9. New Sidewalk Projects
10. Sidewalk Maintenance
11. Asphalt and contract roads

**Section 3.0 Restrictions on Gary Meyer Capital Line Item**

The Gary Meyer Capital Line Item should only be used for Capital purchases as defined herein in Section 2.0:

- 1) This money can be used as part of the Mayor's budget; or
- 2) As decided upon a vote of the majority of council.

**Section 4.0 Provisions Severable**

The provisions of this Ordinance are severable; and the invalidity of any provision of this Ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

**Section 5.0 Conflicting Ordinances Repealed**

All conflicting Ordinances are repealed.

**Section 6.0 Effective Date**

This Ordinance shall become effective at midnight on the evening of \_\_\_\_\_, 2023.

\_\_\_\_\_  
**JESSICA FETTE, Mayor**

DATE: \_\_\_\_\_